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2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 14 CV 9148

5  
6 - - - - - x  
7 BENJAMIN CASE, ELIZABETH CATLIN,  
8 JENNIFER KLEIN, and MARK KUSHNEIR,

9  
10 Plaintiffs,

11  
12 - against -

13  
14 THE CITY OF NEW YORK, NEW YORK CITY POLICE  
15 DEPARTMENT ("NYPD") CHIEF OF DEPARTMENT  
16 JOSEPH ESPOSITO, NYPD DEPUTY CHIEF BRIAN  
17 MCCARTHY, NYPD LIEUTENANT DAVID GROHT,  
18 NYPD SERGEANT LAWRENCE PAPOLA, SHIELD  
19 NO. 03646, NYPD OFFICER BENJAMIN ALMONTE,  
20 SHIELD NO. 29182, NYPD OFFICER DANIEL CONFORTI,  
21 SHIELD NO. 26403, NYPD OFFICER FIRST NAME  
22 UNKNOWN ("FNU") DOWNES, SHIELD NO. UNKNOWN,  
23 NYPD OFFICER DMITRY TVERDOKHLEB, SHIELD  
24 NO. 27018, and NYPD OFFICER MICHAEL  
25 MALDONADO, SHIELD 23573,

Defendants.

- - - - - x  
October 17, 2017  
11:14 a.m.  
100 Church Street  
New York, New York

DEPOSITION of OFFICER DMITRY TVERDOKHLEB,  
held at the above time and place, taken before  
Brittany Saline, a Professional Shorthand Reporter  
and Notary Public of the State of New York,  
pursuant to the Federal Rules of Civil Procedure,  
with written notice as to time and place thereof.

A P P E A R A N C E S :

GIDEON ORION OLIVER, ESQ.

Attorney for Plaintiffs

277 Broadway

New York, New York 10007

NYC LAW DEPARTMENT

Attorneys for Defendants

100 Church Street

New York, New York 10007

BY: AMY ROBINSON, ESQ.

\* \* \* \*

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED, by  
and among counsel for the respective parties  
hereto, that the filing, sealing and certification  
of the within deposition shall be and the same are  
hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all  
objections, except as to form of the question,  
shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the  
within deposition may be signed before any Notary  
Public with the same force and effect as if signed  
and sworn to before the Court.

\* \* \* \*

1 Dmitry Tverdokhleb

2 Q You saw that on the video, right?

3 A I don't remember it clearly, it  
4 was a big truck, it was standing there for  
5 a long time trying to pass.

6 Q Ask you saw it on the video; is  
7 that right?

8 A Yes, I saw it on the video also.

9 Q Okay. When you initially  
10 mustered it was Murray and Church and then  
11 you moved to another muster location that  
12 was somewhere near Nassau and Pine, but not  
13 right at Nassau and Pine?

14 A No, because there's no way to get  
15 to it because it was all blocked.

16 Q So just so the record is clear,  
17 after the first muster location, you went  
18 to a second muster location that was not  
19 Nassau and Pine, right?

20 A No. It was like half a block  
21 away or a block because there was a square  
22 (indicating) the big area which was blocked  
23 off, next to the Trade Center -- the trade  
24 place location -- the New York Stock  
25 Exchange, so there was a square and so they

1                   Dmitry Tverdokhleb

2       could, you know, protect this area, if the  
3       protests wanted to get in there, but it was  
4       blocked off. So we muster here  
5       (indicating).

6           Q       To the south of Pine Street?

7           A       Yes, if this is the square, doing  
8       it correctly, we were mustering here  
9       (indicating), moving closer over here  
10      (indicating). We would observe the crowd  
11      for a little bit waiting for the orders.

12          Q       When you're pointing at the map,  
13      it's not -- the court reporter can't record  
14      your pointing, so it's important to  
15      describe verbally.

16          A       This is south, right?

17          Q       Yes.

18          A       So it would be staging south of  
19      Nassau and Pine.

20          Q       Thank you.

21          A       Couple of like car lengths behind  
22      and wait for the orders. So we would  
23      observe the crowd for minutes before we  
24      actually received orders.

25          Q       Okay. At some point at around

1 Dmitry Tverdokhle

2 Q Okay. And how many police  
3 officers were on the -- on Nassau Street to  
4 the south of Pine Street when you first got  
5 to that location one to two car lengths  
6 away from Pine Street?

7 A Oh, I don't remember.

8 Q Was it more than ten?

9 A I don't remember, but, I think it  
10 was more than 10, it appears more than 10,  
11 more than 20, but I don't remember.

12 Q Okay. And when you watched the  
13 video, did you see -- well, withdrawn.

14 When you watched the video, did  
15 you see the moment that you arrived at  
16 Nassau and Pine Street on the video that  
17 you watched?

18 A No.

19 Q Okay. When you got there, by the  
20 way, the protesters were already north of  
21 the intersection at Nassau and Pine, right?

22 A They were at the intersection of  
23 Nassau and Pine. They were blocking the  
24 whole street, so the actual intersection  
25 was square, was all blocked off.

1                   Dmitry Tverdokhle  
2       saw -- I believe it was Lieutenant, you  
3       know, talking on the loudspeaker, telling  
4       the crowd to move. And the crowd was not  
5       listening to him at all. He would say like  
6       every two minutes, maybe more, like  
7       nonstop, and they were not moving.

8                   You know, when we got there,  
9       there was like standing, moving around,  
10      people chanting, and later on I think they  
11      sat down in the middle of the  
12      intersection -- someone.

13               Q     What time did you get to the  
14      intersection of Nassau and Pine?

15               A     After 8 o'clock, 8.

16               Q     And what was the first -- what  
17      time was the first moment that you observed  
18      Jennifer Klein?

19               A     About that time. 8:30, maybe,  
20      8:20. Because we were staging there, she  
21      had very wide -- like long coat. It stood  
22      out, you can pick it out from the crowd.

23               Q     Okay. So you arrested five  
24      people, right?

25               A     Correct.

1 Dmitry Tverdokhleb

2 Q What were the other four people  
3 wearing?

4 A Some of them were in jeans -- not  
5 jeans, the leather jacket. Then there was  
6 like one person in a gray jacket, not gray,  
7 the brown one. The majority of them were  
8 wearing dark color clothes.

9 Q Okay. And what first drew your  
10 attention to Ms. Klein?

11 A She stand out, it was very  
12 bright.

13 Q Sorry?

14 A She was wearing very bright  
15 clothes. You can pick it up like when you  
16 see -- it stood out.

17 Q How far away from her were you  
18 when you first saw her?

19 A About two car, three car lengths.

20 Q I thought you were two to three  
21 car lengths away from the intersection of  
22 Nassau and Pine?

23 A Right.

24 Q Okay. So you're saying she was  
25 in --



1                                   Dmitry Tverdokhleb

2           A       She was very close. So she was  
3   on the middle, closer to us, but it was  
4   like -- she was not far, so you can see  
5   her.

6           Q       When you say in the middle, what  
7   do you mean in the middle?

8           A       In the middle of an intersection.

9           Q       Okay. So you're saying that when  
10   you first saw her she was in the middle of  
11   the intersection of Nassau and Pine, she  
12   wasn't to the north?

13          A       Yes, she was -- so this an  
14   intersection of Nassau and Pine.

15          Q       Yes.

16          A       She was right here, closer to --  
17   closer to the Nassau and then she was  
18   moving there, so.

19          Q       When you say "she was moving  
20   there," what do you mean?

21          A       She was talking and that's where  
22   I saw her for the first time.

23          Q       Okay.

24          A       That's before the orders were  
25   given out to arrest and stuff like that.

1                                   Dmitry Tverdokhleb

2           Q       Okay. And was the male sitting  
3 or standing when you extracted him?

4           A       He was standing, I think he was  
5 standing.

6           Q       Okay. Now, up until that point,  
7 had you seen Ms. Klein sit down?

8           A       I was there in the beginning, she  
9 was standing. Later on, the group sat  
10 down, approximately like maybe 16 people.  
11 And she was one of them, I believe so.

12          Q       When you say "I believe so," what  
13 do you mean?

14          A       She was there and I don't  
15 remember exactly how many people were  
16 sitting, but in my recollection, it was 15,  
17 12 people were sitting in the middle, she  
18 was there.

19          Q       When you say "she was there,"  
20 what do you mean?

21          A       Ms. Klein, she was sitting there.

22          Q       You saw her sitting?

23          A       Yes.

24          Q       When did you see her sitting?

25          A       So I started extracting and

1                   Dmitry Tverdokhleb

2       then the crowd changed. We sat down and  
3       from that sitting crowd I got numerous  
4       arrests, so Ms. Klein together with the  
5       other people who were arrested were sitting  
6       over there.

7           Q       Did you see her sit down? Did  
8       you see her go from standing to sitting?

9           A       I saw her standing at the  
10       beginning of the parade and then briefly  
11       saw them sit down and saw her sitting, but  
12       I didn't see her getting down and  
13       everything like that, because I was dealing  
14       with the people who were arrested and  
15       brought to the staging area, which is a  
16       little bit like car length away from Nassau  
17       and Pine on -- southeast corner, I believe  
18       so. No, southwest.

19          Q       Right.

20          A       So that's where we were staging  
21       them. And I would assist -- you know, sit  
22       down and everything like that, so.

23          Q       Just so I'm sure I understand,  
24       the extraction process, describe to me what  
25       you did to extract the first individual?

1                                   Dmitry Tverdokhleb

2       physically placed her under arrest?

3                   A       I don't know.

4                   Q       Okay. Before she was physically  
5       placed under arrest, did you see any  
6       officers give any instructions specifically  
7       to Ms. Klein, not to the crowd or the  
8       group, but specifically to Ms. Klein?

9                   A       No.

10                  Q       Okay. Do you know who put cuffs  
11       on Ms. Klein?

12                  A       No.

13                  Q       Did there come a time where you  
14       touched her?

15                  A       Yes.

16                  Q       When you first touched her, were  
17       you still at the arrest location?

18                  A       Correct. I was south on Nassau  
19       and Pine, in the arrest holding area.

20                  Q       Did someone hand her to you?

21                  A       I don't recall, but I was there,  
22       I was accepting a lot of people, so.

23                  Q       Do you remember from whom you  
24       accepted Ms. Klein?

25                  A       I can't recall.

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1 Dmitry Tverdokhle

2 Q Okay. Did anyone tell you  
3 anything about what Ms. Klein's conduct  
4 prior to her arrest when you accepted her?

5 A No.

6 Q Was she in cuffs when you  
7 accepted her?

8 A I believe so.

9 Q And what kind of cuffs was she  
10 in?

11 A Flex cuffs, white in color.

12 Q Was she rear- or front-cuffed?

13 A Rear-cuffed.

14 Q Okay. In addition to the one  
15 person who you were -- who you extracted or  
16 were involved in extracting, the male --  
17 well, withdrawn.

18 You processed the arrest of five  
19 people that day, right?

20 A Yes.

21 Q One was the male, one was  
22 Ms. Klein, right?

23 A Yes.

24 Q And then there were three others.  
25 What were the genders of the

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C E R T I F I C A T I O N

STATE OF NEW YORK )

: ss.:

COUNTY OF NEW YORK )

I, BRITTANY SALINE, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth was duly sworn by me.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of October, 2017.



BRITTANY SALINE